

Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 AGR-05 CIAE-00 COME-00 INR-07

LAB-04 NSAE-00 SP-02 STR-04 TRSE-00 CIEP-01 FRB-03

OMB-01 L-03 /045 W

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R 060840Z APR 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 3786

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PASS USDA/FAS/STEPHENS, CEP AND WILLIAMS, FMD/COT DIV
STATE FOR ANGEVINE, F&TD

E O 11652: N/A

TAGS: EAGR, RP

SUBJ: COTTON CONTRACT PROBLEM

REF: A. STATE 073763 B. MANILA 3935 C. STATE 058712

1. E/C COUNSELOR AND AGATTACHE MET WITH GOVERNOR DE OCAMPO APRIL 1
AS FOLLOW-UP TO MEETING WITH MRS. REYES REPORTED REF B. PRIOR TO
MEETING, AGATTACHE HAD RECEIVED FOLLOWING LETTER, DATED MARCH 25,
FROM GOVERNOR DE OCAMPO:

QUOTE. RELATIVE TO YOUR LETTER DATED MARCH 12, 1976 CONCERNING THE
OUTSTANDING COTTON CONTRACTS OF YUPANGCO COTTON MILLS, INC. WITH
COTTON IMPORT AND EXPORT CORPORATION (CIEC), WE WISH TO INFORM
YOU THAT IN VIEW OF CIEC'S REFUSAL TO ABIDE BY THE DECISION
RENDERED BY THE PHILIPPINE COURT ON THE CASE FILED BY YUPANGCO,
WE BELIEVE IT WILL NOT BE IN ORDER NOW FOR DBP TO URGE YUPANGCO
TO HONOR ALL ITS OTHER CONTRACTS WITH CIEC. PARA. ON THE OTHER
HAND, MAY WE CALL ATTENTION TO THE FAILURE UP TO THIS DAY OF
STARKE TAYLOR TO HONOR ITS OWN SUPPLY CONTRACTS WITH SOLID MILLS,
INC.? UNLESS THE U.S. EMBASSY IS ABLE TO GET STARKE TAYLOR TO
HONOR ITS OWN CONTRACTS, PLEASE BE ADVISED THAT WE SHALL FIND
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IT EXTREMELY DIFFICULT TO HAVE THE LOCAL TEXTILE MILLERS OPEN

THE LETTERS OF CREDIT FOR THEIR REMAINING PAST DUE CONTRACTS.
END QUOTE.

2. YUPANGCO.

A. IN CONVERSATION, WHICH DEVELOPED IN CORDIAL, UNDERSTANDING MANNER, GOVERNOR DE OCAMPO DOWNPLAYED HARD LINE STANCE TAKEN IN LETTER, ALTHOUGH HE RESTATED VIEW THAT DBP NOT IN POSITION TO IGNORE COURT DECISION. EMBOFFS RESPONDED BY NOTING THAT THEY UNDERSTOOD AND SYMPATHIZED WITH POSITION IN WHICH DBP FOUND ITSELF. ON OTHER HAND, THEY POINTED OUT, DBP FACES REAL PROBLEM, EXISTENCE OF WHICH CANNOT BE IGNORED. ACCEPTANCE OF COURT DECISION IN YUPANGCO CASE COULD ESTABLISH PRECEDENT AND HAVE SERIOUS REPERCUSSIONS ON SYSTEM FOR SETTling DIFFERENCES THROUGH LONG ESTABLISHED AND EFFECTIVE ARBITRATION PROCEDURES.

B. DE OCAMPO HASTENED TO SAY THAT HE AGREED AND SUGGESTED TWO LINES OF ACTION. FIRST, CIEC HAD IGNORED COURT CASE; HAD CIEC BEEN REPRESENTED BY COUNSEL AND IF JUDGE HAD BEEN AWARE OF FACTS OF CASE (I.E., SPECIFIC SIGNIFICANCE OF CONTRACTUAL REQUIREMENT FOR ARBITRATION), DECISION MIGHT HAVE BEEN DIFFERENT. CIEC WOULD BE WELL ADVISED, THEREFORE, TO FILE APPEAL. SINCE STATUTORY TIME LIMIT WITHIN WHICH APPEAL MUST BE FILED IS DRAWING TO A CLOSE, DE OCAMPO SUGGESTED CIEC ACT PROMPTLY. VISIT BY CIEC REPRESENTATIVE TO MANILA TO DISCUSS PROBLEM WITH YUPANGCO MIGHT ALSO BE HELPFUL, HE SAID. SECOND, FOR HIS PART, DE OCAMPO SAID HE WOULD CONTINUE TO APPLY PRESSURE, MORAL AND OTHERWISE, ON YUPANGCO. HE PLANNED TO HAVE A FRIENDLY DISCUSSION WITH COMPANY TO PERSUADE THEM TO HONOR COMMITMENTS; HE THOUGHT HE MIGHT HAVE SOME SUCCESS SINCE YUPANGCO IS AWARE THAT ITS FUTURE REQUESTS FOR CREDIT MUST BE APPROVED BY HIM. IN MEANTIME, SINCE AFFAIR SEEMED LIKELY TO BE DRAWN OUT, DE OCAMPO SUGGESTED YUPANGCO BE PERMITTED TO OPEN L/C'S ON CAH 31.

∴ COMMENT: DESPITE TEST OF HIS LETTER, WE DID NOT GAIN IMPRESSION THAT DE OCAMPO IS IN FACT SEEKING TO TAKE REFUGE BEHIND COURT OR THAT, IN HIS MIND, COURT'S DECISION AFFECTS DBP'S, OR BY EXTENSION GOP'S, COMMITMENT THAT CONTRACTS WILL BE HONORED. JUDGING BY HIS LATER STATEMENTS, IT APPEARED THAT LIMITED OFFICIAL USE

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THIS PORTION OF HIS LETTER WAS ELICITED BY OUR LETTER (REF C) AND MIGHT NOT OTHERWISE HAVE BEEN AS EXPLICITLY STATED. ON THE CONTRARY, DE OCAMPO APPEARS VERY MUCH AWARE OF DBP'S OBLIGATION. THIS SHOULD NOT BE ALLOWED TO OBSCURE FACT THAT COURT DECISION COMPLICATES LIFE FOR DBP AND THAT DBP COULD USE SOME HELP SUCH AS THAT OUTLINED IN DE OCAMPO'S FIRST SUGGESTED LINE OF ACTION.

3. LIRAG AND UNITED ASIA. DE OCAMPO SAID DBP IS PROCEEDING

WITH DEVELOPMENT OF SCHEDULE FOR OPENING L/C'S. HOWEVER, MRS. REYES IS ILL WHICH WILL CAUSE SOME DELAY. (NOTE: LOCAL PRESS CARRIED BRIEF REPORT SOME DAYS AGO TO EFFECT THAT GOP IS INVESTIGATING LIRAG FIRE ON SUSPICION OF ARSON).

4. SOLID MILLS - STARKE TAYLOR. DE OCAMPO SAID DBP VIEWS CONTRACT CANCELLATION BY STARKE TAYLOR IN SERIOUS LIGHT AND BELIEVES IT TO HAVE BEEN UNJUSTIFIED. NEVERTHELESS, HE SAID, HE DID NOT WANT EMBOFFS TO BELIEVE THAT DBP WOULD NOT THEREFORE, TRY TO LIVE UP TO ITS COMMITMENTS. USG SHOULD REGARD STATEMENT IN HIS LETTER AS BEING "FOR THE RECORD" RATHER THAN AS AN INDICATION THAT DBP WOULD NOT CONTINUE ITS EFFORTS. IN FACT, HE SAID IN CONFIDENCE, HE WOULD PERSONALLY PUSH FOR THE OPENING OF LIRAG AND UNITED ASIA CONTRACTS, AND SCHEDULE WILL BE AVAILABLE SOON.

5. COMMENT: WE INTERPRET MARKED CONTRAST BETWEEN DE OCAMPO'S WRITTEN AND ORAL STATEMENTS AS BEING EXACTLY WHAT HE INDICATED IT TO BE, NAMELY, THAT DBP FEELS STRONGLY ON THESE TWO POINTS AND WISHED TO STATE AS MUCH FOR THE RECORD; AT THE SAME TIME DBP IS NOT TAKING REFUGE BEHIND THESE ISSUES AND AT THIS POINT CONTINUES TO INTEND TO HONOR ITS COMMITMENTS. STARKE TAYLOR'S REFUSAL TO REINSTATE ITS CONTRACT WILL SIMPLY MAKE THIS TASK MORE DIFFICULT - AND IN THE END, PERHAPS, IMPOSSIBLE. IN GENERAL, WE CONTINUE TO BELIEVE THAT IF STARKE TAYLOR WERE TO HONOR ITS CONTRACT WITH SOLID, WHICH IN OUR VIEW SHOULD NOT HAVE BEEN CANCELLED, IMAGE OF USG AND AMERICAN COTTON INDUSTRY ON ISSUE OF SANCTITY OF CONTRACT, WHICH WAS MAIN THEME OF U.S. ARGUMENT, WOULD BE SUBSTANTIALLY IMPROVED.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COTTON, DISPUTES, CONTRACTS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: izenbei0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MANILA04790
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760128-1211
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760493/aaaadbrr.tel
Line Count: 145
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 73763, 76 MANILA 3935, 76 STATE 58712
Review Action: RELEASED, APPROVED
Review Authority: izenbei0
Review Comment: n/a
Review Content Flags:
Review Date: 01 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 JUN 2004 by BoyleJA>; APPROVED <28 SEP 2004 by izenbei0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COTTON CONTRACT PROBLEM
TAGS: EAGR, ETRD, RP, CIEC, YUPANGCO COTTON MILLS INC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006